

Thomas J. Luz (TL-4665)  
PEARCE & LUZ LLP  
Attorneys for Plaintiff Peter Lindner  
1500 Broadway, 21<sup>st</sup> Floor  
New York, New York 10036  
(212) 221-8733  
e-mail: tluz@pearcenluz.com

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

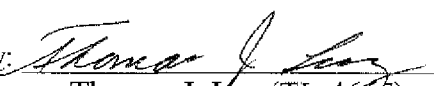
-----	X	
PETER W. LINDNER,	:	Civ. No. 06-3834 (JGK-
	:	THK)
Plaintiff,	:	Hon. John G. Koeltl
	:	
-against-	:	
	:	
AMERICAN EXPRESS CORPORATION and	:	
QING LIN,	:	
	:	
Defendants.	:	
-----	X	

**NOTICE OF MOTION TO  
WITHDRAW**

PLEASE TAKE NOTICE that, upon the annexed Affidavit of Thomas J. Luz, sworn to on April 3, 2007, and all prior proceedings herein, Pearce & Luz LLP, counsel for Plaintiff, will move this Court, before Honorable John G. Koeltl at the United States District Courthouse, 500 Pearl Street, New York, New York, on a date and time to be designated by the Court, for an order permitting Pearce & Luz LLP to withdraw as counsel for Plaintiff, together with such other and further relief as this Court may deem just and proper.

April 3, 2007

PEARCE & LUZ LLP

by:   
Thomas J. Luz (TL-4665)

1500 Broadway, 21<sup>st</sup> Floor  
New York, New York 10036  
(212) 221 8733

TO:

Jean Y. Park, Esq.  
Kelley Drye & Warren LLP  
101 Park Avenue  
New York, New York 10178

Mr. Peter Lindner  
1 Irving Place, Apt. G-23-C  
New York, New York 10003

Thomas J. Luz (TL-4665)  
PEARCE & LUZ LLP  
Attorneys for Plaintiff Peter Lindner  
1500 Broadway, 21<sup>st</sup> Floor  
New York, New York 10036  
(212) 221-8733

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
PETER W. LINDNER,	:	Civ. No. 06-3834 (JGK-THK)
	:	Hon. John G. Koeltl
Plaintiff,	:	
	:	
-against-	:	
	:	
AMERICAN EXPRESS CORPORATION and	:	
QING LIN,	:	
	:	
Defendants.	:	
-----	X	

**AFFIDAVIT OF THOMAS J. LUZ  
IN SUPPORT OF MOTION TO WITHDRAW**

STATE OF NEW YORK     )  
                                      :     SS.:  
COUNTY OF NEW YORK    )

THOMAS J. LUZ, being duly sworn, says:

1)     I am a member of the Bar of this Court and of the firm of Pearce & Luz LLP, counsel for Plaintiff in this action.

2)     I make this affidavit on personal knowledge in support of the motion of ~~Pearce & Luz LLP to withdraw as counsel for Plaintiff.~~

3)     This action is still in discovery, with depositions of the parties still to be held. The action is not on the trial calendar.

4)     Because of irreconcilable differences in our perceptions of the case and the best interests (not only legal, but economic and personal) of the client, it has become

impossible for Pearce & Luz to zealously represent Mr. Lindner. Mr. Lindner refuses to follow our legal advice, insists on contacting our adversaries and the court *ex parte* despite warnings not to do so, and has otherwise not complied with his obligations as a litigant and client. The final blow to the relationship is Mr. Lindner's attempt to renege on an on-the-record settlement of this action, which was reached on March 29, 2007 after an all-day mediation with Magistrate Judge Theodore Katz.

5) I have been the partner in charge of this matter. When we first agreed to represent Mr. Lindner, we were under the impression that he had a discrete claim for breach of a settlement agreement and Title VII retaliation against Defendant American Express Corporation and one of its employees. Over time, it became apparent that Mr. Lindner's goals are inconsistent with the obligations of a litigant in this Court.

6) The differences in perception of the nature and purpose of our participation have made it increasingly difficult to represent Mr. Lindner. To accede to Mr. Lindner's desires would have required vexatious and borderline-frivolous motion practice; to refuse to do would have created acrimony, resentment and allegations that we were not acting in the client's "best interest."


7) On March 29, the parties attended a mediation session before Judge Katz. After 8½ hours of discussions, Judge Katz facilitated a comprehensive resolution of all of the issues between the parties, both within the litigation and outside it. Mr. Lindner personally agreed to the terms of the agreement on the record, as did all of the attorneys.

8) Shortly thereafter, Mr. Lindner personally contacted Judge Katz and officers of Amex indicating his intention not to comply with the settlement agreement. Although I have made every effort to persuade Mr. Lindner to honor his obligations under this agreement

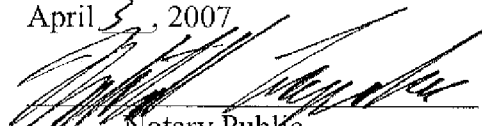
and Judge Katz has spent additional time attempting to do so, we have been unsuccessful. Further, my attempts to do so have so alienated us from the client that there is no possibility of a reasonable working relationship.

9) Because the case is not on the trial calendar and Mr. Lindner has ample time to secure new counsel in the event his motion to vacate the settlement agreement is successful, there is no prejudice to him and no inconvenience to the Court to permit our withdrawal.

Accordingly, the motion to withdraw should be granted.

  
Thomas J. Luz

Sworn to before me  
April 3, 2007

  
Notary Public

MITCHELL LAPIDUS  
Notary Public, State of New York  
No. 02LA6025028  
Qualified in New York County  
Commission Expires 05/17/2007

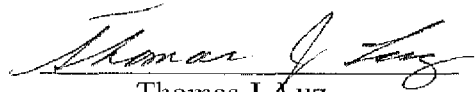
Thomas J. Luz (TL-4665)  
PEARCE & LUZ LLP  
Attorneys for Plaintiff Peter Lindner  
1500 Broadway, 21<sup>st</sup> Floor  
New York, New York 10036  
(212) 221-8733  
e-mail: tluz@pearcenluz.com

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----	X	
PETER W. LINDNER,	:	Civ. No. 06-3834 (JGK-
	:	THK)
Plaintiff,	:	Hon. John G. Koeltl
	:	
-against-	:	
	:	
AMERICAN EXPRESS CORPORATION and	:	
QING LIN,	:	
	:	
Defendants.	:	
-----	X	

**CERTIFICATE OF SERVICE**

I hereby certify that on April 3, 2007, a copy of the foregoing Notice of Motion to Withdraw with annexed affidavit was filed electronically and served by mail on anyone unable to accept electronic filing. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the Court's CM/ECF System.

  
Thomas J. Luz